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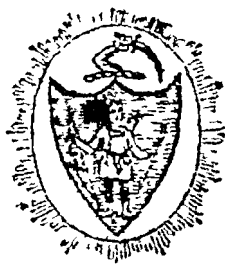
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L A W S
FOR
REGULATING AND GOVERNING
THE
M I L I T I A
OF THE
COMMONWEALTH
OF
MASSACHUSETTS.

Published by Authority.



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1800.



MILITIA LAWS.

IN THE YEAR OF OUR LORD, ONE THOUSAND
SEVEN HUNDRED AND NINETY-THREE.

An Act

For regulating and governing the Militia of the Commonwealth of Massachusetts, and for repealing all Laws heretofore made for that purpose; excepting an Act entitled, "An Act for establishing Rules and Articles for governing the Troops stationed in Forts and Garrisons within this Commonwealth, and also the Militia when called into actual service."

WHEREAS the Laws for regulating and governing the Militia of this Commonwealth have become too complicate for practical use, by reason of the several alterations which have from time to time been made therein: Therefore,

BE

I. *BE it enacted by the SENATE and HOUSE of REPRESENTATIVES, in General Court assembled, and by the authority of the same,* That the several Laws heretofore made for governing and regulating the Militia, be, and hereby are repealed, except an Act, entitled, “ An Act for establishing Rules and Articles for governing the Troops stationed in Forts and Garrisons within this Commonwealth, and also the Militia when called into actual service.”

Provided nevertheless, That all officers actually in commission, agreeably to the laws which are hereby repealed, and in grades which are established by this Act, shall continue in commission in the same manner, and in the same authority they would, in case the said laws were still in force ; and all actions depending in any Court by force of said laws, shall, and may be prosecuted to final judgment and execution.

II. *And be it enacted by the authority afore said,* That each and every free, able-bodied white male citizen, of this, or any other of the

the United States, residing within this Commonwealth, who is, or shall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively be subject to the requisitions of this Act, and shall be enroled in the Militia, by the Captain or Commanding Officer of the company, within whose bounds such citizens shall reside, within three months from and after the passing this Act : And it shall be at all times hereafter the duty of the Commanding Officer of every such company, to enrol every such citizen as aforesaid ; and also those, who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, and not herein after excepted, shall come to reside within his bounds ; and shall without delay notify such citizen of the enrolment, by a non-commissioned officer or other person duly authorized for that purpose, by whom such notice may be proved ; and in all cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned, shall prove his age to the

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satisfaction

satisfaction of the Commanding Officer of the company within whose bounds he may reside.

III. *And be it further enacted by the authority aforesaid,* That the Vice-President of the United States ; Members of Congress, of both Houses, with their respective Officers ; Lieutenant-Governor ; Members of the Council, Senate and House of Representatives, with their Officers ; Secretary and Treasurer of the Commonwealth ; Officers, Judicial and Executive, of the Government of the United States ; Justices of the Supreme Judicial Court ; Justices of the Courts of Common Pleas ; Judges of Probate ; Registers of Probate ; County Registers ; Justices of the Peace ; Sheriffs ; Deputy Sheriffs ; Coroners ; Constables ; Selectmen ; Ministers of the Gospel ; Elders and Deacons of Churches ; Church Wardens, and those of the religious denominations of Quakers and Shakers ; Masters of Arts ; Officers and Students at any College ; also such Physicians, Surgeons, stated School Masters, Ferry-men and Millers, as the Selectmen of the towns to which

which they shall severally belong, shall by a writing under their hands, signify the expediency of exempting ; persons who have by commission under any government or Congress, or by election in pursuance of the orders of any Congress of the United States, or either of them, held the office of a Subaltern or office of higher rank ; and all Mariners actually employed in any sea-service of any citizen within the United States, in any vessel of more than thirty tons burthen ; Custom-House Officers ; all Post-Officers, Stage-Drivers, actually employed in the care and conveyance of the Mail ; and such persons as did attain to the age of forty years before the eighth day of *May* one thousand seven hundred and ninety three ; and also all such Manufacturers as are by any special law of the Commonwealth now exempted, shall be, and hereby are exempted from the said enrolment.*

IV. *And be it further enacted by the authority aforesaid,* That the Governor, by and with the advice of the Council, be, and hereby is authorized and empowered to form and arrange the Militia into divisions, brigades,

* This Section is repealed.

brigades, regiments and companies ; and from time to time to make such alterations therein as shall be necessary ; and if the same be convenient, each brigade shall consist of four regiments, each regiment of ten companies, and each company of sixty-four effective privates : *Provided notwithstanding*, That the present arrangement of the Militia shall continue as it now is, until the Governor, with the advice of Council, shall otherwise order ; and each new division, brigade and regiment shall be numbered at the formation thereof, and a record made of such number in the Adjutant-General's office, and when in the field or in service, each division, brigade and regiment shall respectively take rank according to its number.

V. *And be it further enacted by the authority aforesaid*, That the Militia shall be officered, as follows : To each division, one Major-General, and two Aids-de-Camp, with the rank of Major : To each brigade, one Brigadier-General, with one Brigade-Inspector, to serve also as Brigade-Major, with the rank of Major : To each regiment, one Colonel, one Lieutenant-Colonel,

nel, one Major; *provided nevertheless*, where any vacancy of Colonel now is, or shall hereafter happen, then the field-officers of each regiment to consist of a Lieutenant-Colonel-Commandant, and two Majors: To each company of infantry, one Captain, one Lieutenant, and one Ensign, four Sergeants, four Corporals, one Drummer, one Fifer or Bugler: That there shall be a Regimental Staff, to consist of one Adjutant, one Quarter-Master, to rank as Lieutenants, one Surgeon, and one Surgeon's Mate, to be appointed by the Commanding Officer of the regiment, and commissioned by the Governor, one Sergeant-Major, one Quarter-Master Sergeant, one Drum-Major, and one Fife-Major: That each company of artillery shall consist of one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombadiers, one Drummer, one Fifer, and thirty-two Privates or Maitresses: And each troop of cavalry shall consist of one Captain, two Lieutenants, and one Cornet, four Sergeants, four Corporals, one Saddler, one Farrier, one Trumpeter, and thirty-two Privates: And there shall be one Adjutant-General and one Quarter-Master-General.

Master-General for the whole Militia, to be appointed by the Governor.

VI. *And be it further enacted by the authority aforesaid,* That each and every Major-General be, and hereby is empowered, and it shall be his duty, to give all such orders as shall from time to time be necessary, consistent with the law for electing Brigadier-Generals, Field-Officers, Captains and Subalterns, in brigades, regiments and companies, within his respective division, which have not been already commissioned, and for filling up vacancies of such officers or any of them, where they now are or may hereafter happen..

Provided always, That whenever a time shall be appointed for the election of any Officer or Officers, the electors shall have ten days notice thereof, at least, and all returns of elections, and neglects, or refusals to make choice of Officers, shall be made to the Governor by the Major-General, in whose division the election shall be ordered; and all commissions shall pass through the hands of the Major-Generals to the officers
in

in their respective divisions, for whom they shall be made out ; and every person who shall be elected to any office in the said Militia, and shall not within ten days after he shall have been notified of his election, (excepting a Major-General, who shall be allowed thirty days after he shall be notified by the Secretary of the Commonwealth) signify his acceptance thereof, shall be considered as declining to serve in such office ; and orders shall be forthwith issued for a new choice.

VII. *And be it further enacted by the authority aforesaid,* That every person who shall be lawfully entitled to be commissioned to any office in the Militia of this Commonwealth, shall at the time of receiving his commission, take and subscribe the oaths and declaration required by the Constitution, before some Justice of the Peace, or some General or Field Officer, who shall have previously taken and subscribed them himself, and who are hereby authorized to administer the same ; and a certificate thereof shall be made on the back of every commission, by the Justice of the Peace, or General

neral or Field Officer, before whom the said oaths and declaration shall have been taken and subscribed.

VIII. *And be it further enacted by the authority aforesaid,* That the Commanding Officer of regiments, shall appoint the non-commissioned Staff-Officers of their respective regiments :—The Commanding Officers of Companies shall appoint the non-commissioned Officers, including the Clerks, of the respective companies :—All non-commissioned Staff-Officers and Sergeants shall receive warrants under the hand of the Commanding Officer of their respective regiments or corps :—And the Adjutant shall keep a record in a suitable book, to be kept for that purpose, of all warrants which shall be issued :—And no non-commissioned Officer shall be deemed to have resigned his office, until he shall have done it in writing to the Commanding Officer of the regiment or corps to which he belonged ; and shall have obtained his discharge also in writing, from such Commanding Officer :—And no non-commissioned Officer or Private, shall be disenrolled from the Militia
for

for disability, without a certificate from the regimental Surgeon and Mate.

IX. *And be it further enacted by the authority aforesaid,* That every company shall have a Clerk, who shall be also one of the Sergeants, and he shall be sworn to the faithful discharge of his trust ; and it shall be his duty always to keep a fair and exact roll of the company, together with the state of the arms and equipments belonging to each man, which roll he shall annually revise and correct in the month of *May*, as is herein after directed ; to register all orders and proceedings of the company in an orderly book, which shall never be alienated from the company ; to keep exact details of all detachments ; to call the roll whenever the company is assembled ; to examine the equipments when thereto required, and to note all delinquencies ; to sue for, recover and receive all fines and forfeitures which are required by this Act to be recovered, one half to his own use for his trouble, and the other half to be paid to the Commanding Officer of the company, in trust, for the use of the company to which he belongs,

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longs, excepting such cases wherein other provision is made by this Act, for the recovery and appropriation of fines and forfeitures.

Provided nevertheless, That all commissioned Officers now in command in the Militia, in any grade not established by this Act, shall be continued in their command ; and the Clerks of companies, now in office, shall be continued in such office.

X. *And be it further enacted by the authority aforesaid,* That whenever a company shall have neither commissioned Officers nor non-commissioned Officers, the Commanding Officer of the regiment or battalion to which such company belongs, shall appoint suitable persons within said company to be non-commissioned Officers and Clerk of the same ; and such non-commissioned Officers and Clerk, so appointed, shall be authorized in the same manner, and have the same power, and authority, as if they had been appointed by a Captain duly qualified to command said company.

And

XI. And be it further enacted by the authority aforesaid, That no Officer of the Militia shall be discharged excepting by the Commander in Chief, on the request of such Officer, in writing, or by the Commander in Chief on the address of both Houses of the Legislature, or by being disbanded by a law of the Commonwealth, or by a judgment of a Court-Martial, or by actual removal, (the Major-General to be judge whether the distance is so great that he cannot conveniently discharge the duties of his office) or by twelve months absence, without leave of such Officer, from the district of his command: And no Officer shall consider himself exempted from the duties of his station, until he shall have been discharged in one or other of the methods aforesaid: And if by the Commander in Chief, not until he shall have received a certificate of such discharge: No Officer shall be allowed to resign his commission when under arrest; and no General or Field-Officer shall approve the resignation of any other Officer, until such Officer shall have lodged in his hands all such Militia laws and orderly books as he shall have
been

been furnished with by the Government ; and such General or Field-Officer shall deliver the laws and orderly books which he shall thus have received, to the next succeeding Officer who shall be commissioned in the place of him who shall have resigned.

XII. *And be it further enacted by the authority aforesaid,* That the Governor with the advice of Council, be, and hereby is authorized to complete the cavalry in each brigade of the Militia, to two full companies or troops ; and the cavalry in each brigade, when compleated, shall be formed into battalions or squadrons ; in those brigades where there are or may be two or three troops, they shall form squadrons, and each squadron shall be commanded by a Major ; in those brigades where there are already more than three troops, they shall form battalions, and each battalion shall be entitled to a Lieutenant-Colonel, Major, Adjutant and Quarter-Master : *Provided always,* That in those brigades where there are already two troops raised, they shall not be augmented ; and in those brigades where there are already more than two troops,

troops, they shall not be reduced. *Provided also*, That the companies of cavalry which are by any former Act, annexed to any regiment, shall continue to be so attached to such regiment in which it is raised. The Officers of cavalry shall furnish themselves with good horses, at least fourteen hands and a half-high ; and shall be armed with a pair of pistols, and a good sword, the holsters of which shall be covered with bearskin caps : Each horseman shall furnish himself with a serviceable horse, of at least fourteen hands and a half high ; a good saddle, bridle, mail pillion and valise ; holsters, a breastplate, and crupper ; a pair of boots and spurs ; a pair of pistols, a sabre, and cartridge-box, to contain twelve cartridges for pistols. No man shall be enlisted into any troop of cavalry, unless he shall own and constantly keep a suitable horse, and furniture, for that service ; and if any man who shall belong to any troop of cavalry, shall be destitute of a suitable horse and furniture, for more than three months, at one time, he shall be discharged from such corps, and enrolled in the standing company in which he resides. And whenever any draft or

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detachment

detachment shall be made from a troop of cavalry, for actual service, the men thus drafted or detached, shall march with their own horses ; and before they march, the horses shall be appraised by three indifferent men, to be appointed by the Brigadier of the brigade from which such detachment shall be made.

XIII. *And be it further enacted by the authority aforesaid,* That the Governor with the advice of Council, be, and hereby is authorized to compleat the artillery in each brigade of the Militia, to two full companies ; and when thus compleated, shall form a battalion in each brigade, and be entitled to a Major, Adjutant and Quarter-Master. *Provided nevertheless,* That in those brigades where there are already two companies raised, they shall not be augmented ; and in those brigades where there are already more than two companies, they shall not be reduced. And each company of artillery shall be provided with two good field-pieces, with carriages and apparatus compleat ; an ammunition cart ; forty round shot, and forty rounds of cannister shot.

shot.—The Governor shall order to be issued to each company of artillery, annually, a quantity of powder, not exceeding one hundred pounds, which shall be expended on general muster days, and in experimental gunnery. And the Quarter-Master-General shall provide for, and supply the artillery companies with all the carriages, tumbrils, harness apparatus, implements, laboratory and ordnance stores, which may, from time to time, be necessary for their equipment. The Officers of artillery shall be armed with a sword or hanger ; a fusée, bayonet and belt, with a cartridge-box to contain twelve cartridges : And each non-commissioned Officer and Private or Matros, of those companies which are unprovided with field-pieces, shall furnish himself with all the equipments of a Private in the infantry, until proper ordnance and field artillery is provided. And the Commanding Officer of each company of artillery, shall be accountable for the careful preservation of the pieces and apparatus, and the proper expenditure of the ammunition supplied by government. Each company- of artillery, and troop of cavalry, shall be formed of volunteers from
the

the brigade ; and together they shall not exceed in number one eleventh part of the infantry of such brigade ; and they shall be uniformly clothed in regimentals, to be furnished at their own expence.

XIV. *And be it further enacted by the authority aforesaid,* That at all regimental musters, the companies commanded by the two eldest Captains shall act as light-infantry companies, except where light-infantry companies have already been raised by voluntary enlistment, and one or more shall be attached to such regiment.

XV. *And be it further enacted by the authority aforesaid,* That if any non-commissioned Officer or Private of cavalry, artillery, light-infantry, or other corps raised at large, shall neglect for the term of three months, to keep himself provided with an uniform of the company to which he belongs, as is directed by this Act, he shall be discharged from such corps, by the Brigadier commanding the brigade, and enrolled in the standing company in which he resides. And no company of cavalry, artillery, light-infantry,

infantry, or other corps, which it may be lawful to raise at large, shall be raised within this Commonwealth, when any of the standing companies shall be reduced thereby to a less number than sixty-four effective Privates; and no Officer of any such corps, shall enlist any men belonging to a standing company, for the purpose of forming or recruiting such corps raised at large, when, by means thereof, such standing company would be reduced to a less number than sixty-four effective Privates. And if any such corps, raised at large, shall at any time be destitute of commissioned Officers, and shall neglect to fill up such vacancies for one whole year after being ordered to elect them, or if any such corps shall be reduced under twenty privates, and remain in that situation for one whole year without doing duty as the law directs, then in either case as aforesaid, such corps raised at large shall be deemed disbanded, and the men which belonged to such delinquent corps, shall be enroled in the standing company in which the individuals thereof shall respectively reside: And no such corps, raised at large, shall at any time bear a greater number of
men

men on their rolls than the law allows necessary to constitute them ; and the Commanding Officer of every such corps shall annually, in the month of *April*, make out a list of all the men's names belonging to his corps, and deliver the same to the Commanding Officer of the regiment or battalion, in whose district such corps is or may be raised ; and all such corps, raised at large, not annexed to any particular regiment, shall be subject to the orders of the Commanding Officer of the brigade in which they shall respectively be raised, and shall make their elections and returns in the same manner as other corps of the Militia.

And whereas the military company in *Boston*, commonly called, the "*Ancient and Honorable Artillery Company*," being, by ancient charter, custom and usage, exempted from the general regulations of the Militia : Therefore,

XVI. *Be it further enacted by the authority aforesaid*, That the said company, called, the "*Ancient and Honorable Artillery Company*," shall retain its accustomed privileges,
not

not being incompatible with the Constitution, but shall be subject to all other duties required by this Act in like manner as other companies of Militia.

XVII. *And be it further enacted by the authority aforesaid,* That every commissioned Officer of infantry, whose duty shall require him to serve on foot, shall be armed with a sword and an esponton ; and every Officer whose duty requires him to be mounted, shall be armed with a sword and pair of pistols : And the uniform, in every instance required by this Act, shall be a dark blue cloth coat, of such fashion, and with such facings, and underclothes, as the Major-Generals or Brigadiers shall direct within their several commands.

XVIII. *And be it further enacted by the authority aforesaid,* That every non-commissioned Officer and Private of the infantry shall constantly keep himself provided with a good musket, with an iron or steel rod, a sufficient bayonet and belt, two spare flints, a priming wire and brush, and a knapsack ; a cartridge-box, or pouch with
a box

a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket ; each cartridge to contain a proper quantity of powder and ball ; or with a good rifle, knapsack, shot-pouch, powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder : And shall appear so armed, accoutred and provided, whenever called out, except that when called out to exercise only, he may appear without a knapsack, and without cartridges loaded with ball. *Provided always*, that whenever a man appears armed with a musket, all his equipments shall be suited to his musket ; and whenever a man appears armed with a rifle, all his equipments shall be suited to his rifle : And that from and after five years from the passing of this Act, all muskets for arming the Militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound : And every citizen enroled and providing himself with arms, ammunition and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, or for payment of taxes.

And

XIX. *And be it further enacted by the authority aforesaid,* That every non-commissioned Officer or Private of the infantry, who shall neglect to keep himself armed and equipped as aforesaid, or who shall, on a muster-day, or at any other time of examination, be destitute of, or appear unprovided with the arms and equipments herein directed (except as before excepted) shall pay a fine not exceeding *twenty shillings*, in proportion to the articles of which he shall be deficient, at the discretion of the Justice of the Peace, before whom trial shall be had : And all parents, masters and guardians shall furnish those of the said Militia who shall be under their care and command, with the arms and equipments aforementioned, under the like penalties for any neglect : And whenever the Selectmen of any town shall judge any inhabitant thereof, belonging to the Militia unable to arm and equip himself in manner as aforesaid, they shall at the expense of the town, provide for and furnish such inhabitant with the aforesaid arms and equipments, which shall remain the property of the town at the expense of which they shall be provided ; and if any soldier shall

embezzle or destroy the arms and equipments with which he shall be furnished, he shall, upon conviction before some Justice of the Peace, be adjudged to replace the article or articles which shall by him be so embezzled or destroyed, and to pay the cost arising from the process against him : And if he shall not perform the same within fourteen days after such adjudication, it shall be in the power of the Selectmen of the town to which he shall belong, to bind him out to service or labour, for such term of time as shall, in the discretion of the said Justice, be sufficient to procure a sum of money equal to the value of the article or articles so embezzled or destroyed, and pay cost arising as aforesaid.

XX. *And be it further enacted by the authority aforesaid,* That every person liable to do military duty, who being duly warned shall refuse or neglect to appear at the time and place appointed, armed and equipped as by this act is directed, for any muster, training, view of arms, or other military duty, shall pay as a fine for such default, the sum of *ten shillings* : And every person who shall appear at any muster with his
arms

arms in an unfit condition, shall pay a fine of *three shillings* for each and every such default : *Provided nevertheless*, It shall be lawful for the Commanding Officer of a company, at any time within eight days after any muster, training, view of arms or other duty, to excuse any person for non-appearance, on the delinquent's producing to him satisfactory evidence of his inability to appear as aforesaid ; and the Commanding Officer of the company shall certify the same to the Clerk within the time abovementioned, and the Clerk shall not thereafter commence any prosecution against such delinquent for his fine for non-appearance, as aforesaid.

XXI. *And be it further enacted by the authority aforesaid*, That whenever the Commanding Officer shall think proper to call his company together, or shall be ordered by his superior Officer to do it, he shall issue his orders therefor, to one or more of the non-commissioned Officers, if there be any, if not, to one or more of the privates belonging to his company, directing him or them to notify and warn the said company to appear at such time and place as shall be appointed ;

appointed ; and every such person or persons, who shall receive such orders, shall give notice of the time and place appointed for assembling said company, to each and every person he or they shall be so ordered to warn, either by verbal information, or by leaving a written or printed notification thereof, at the usual place of abode of the person thus to be notified and warned ; and no notice shall be deemed legal for musters for the purpose of common and ordinary trainings, unless it shall be given, four days at least, previous to the time appointed therefor ; but in case of invasion, insurrection or other emergency, any time specified in the orders shall be considered as legal ; and every non-commissioned Officer, or other person, who shall neglect to give the said notice and warning, when ordered thereto by the Commanding Officer of the company to which he belongs, shall for such offence forfeit and pay as a fine, a sum not exceeding *forty shillings*, nor less than *twelve shillings*, at the discretion of the Justice of the Peace before whom trial shall be had ; and the testimony of any person under oath, who shall have received orders agreeable to law, for
notifying

notifying and warning any company, or part thereof, to appear at a time and place appointed for any muster, view of arms, or other military duty, shall be sufficient to prove due notice was given to the party against whom complaint may be made, unless such testimony shall be invalidated by other sufficient evidence : And whenever a company shall be destitute of commissioned Officers, and the Commanding Officer of the regiment or battalion to which such company belongs, shall think proper to call out such company, he shall direct his orders to one or more of the non-commissioned Officers of said company, who shall have full power and authority to warn, assemble, muster, order, exercise and govern said company, conformably to the orders which he or they shall thus receive from their superior Officers for that purpose : *Provided always,* When in regiment or battalion, it shall be lawful for the Commanding Officer present, to order a commissioned Officer to command such company, while acting in conjunction with other corps.

XXII. *And be it further enacted by the authority aforesaid,* That every non-com-

missioned Officer and Private of the Militia, who shall be disorderly or disobedient, or guilty of unmilitary conduct on a muster or training day, or at any other time when on duty, shall be confined during the time of the said muster or training, at the discretion of his Officers, and shall pay a fine not exceeding *forty shillings*, nor less than *twelve shillings*, at the discretion of the Justice of the Peace to whom complaint shall be made.

XXIII. *And be it further enacted by the authority aforesaid*, That whenever any non-commissioned Officer or Private in the Militia, shall be convicted any sum of money, set and affixed to any default, or offence, by this Act, of the sum of *four pounds*, or under, the same shall be recovered in the manner following; that is to say: The Clerk of the company to which the offender belongs, shall, after the expiration of eight days, and within sixty days after the offence shall have been committed, make complaint thereof, and of all matters of substance, and material circumstances attending the same, to some Justice of the Peace, in the county where such offender shall live, who shall make re-
cord

37



• GREETING.

Dated at aforesaid, the day of
in the year of our LORD

E. F. Justice of the Peace.

And

And when the said party shall by himself, or his Attorney appear accordingly, he may plead the general issue and give any special matter in evidence; and if the said party shall make default, or if judgment shall be given against him, and he shall neglect for four days thereafter, to satisfy the same with legal costs, then the Justice of the Peace, before whom trial shall be had, shall issue his warrant of distress, under his hand and seal, in the form following:

— ss.

Seal. *To the Sheriff of the said county,
or his Deputy, or any or either of
the Constables of the town of
within the same county,*

GREETING.

*Whereas C. D. of upon the
day of being a private Soldier in the
Train-Band, (as the case may be) of the com-
pany of foot, commanded by in the
regiment of Militia, in the said county of
commanded by was duly notified to
appear upon the day of in the
town of in the county aforesaid, with
his*

his arms and equipments, as the law of this Commonwealth directs ; and the said C. D. in violation of the said Law, did unnecessarily neglect to appear, (or did not appear armed and equipped, as the case may be) whereby he hath forfeited, and ought to pay the sum of shillings, to the uses directed by law ; and the said C. D. having been duly summoned to appear before me E. F. one of the Justices of the Peace, for the county aforesaid, to shew cause, if any he had, why a warrant of distress should not be issued for the same sum, did not appear, (or appearing, did not shew sufficient cause, why the same warrant should not be issued, as the case may be ;) In the name of the Commonwealth of Massachusetts, you are therefore commanded forthwith, of the goods or chattels of the said C. D. within your precinct, to levy by distress and sale thereof, the aforesaid sum of shillings, with for charges of suit, being in the whole, the sum of and to pay the same to Clerk of the aforesaid company ; and also of the goods or chattels of the said C. D. to levy for this writ, together with your own fees ; and for want of such goods or chattels of the said C. D. to be by him shewn to you,

you, or found within your precinct, you are commanded to take the body of the said C. D. and him commit to the common Gaol in the county aforesaid ; and the Keeper thereof is hereby commanded to receive the said C. D. into the said Gaol, and him safely keep, until he shall pay the sum aforesaid, together with legal fees and costs, or until he shall be otherwise discharged by order of law ; and you are to make return of this warrant with your doings thereon, unto myself, within twenty days next coming, for which this shall be your sufficient warrant ; hereof fail not. Given under my hand and seal, the day of in the year of our LORD

E. F. Justice of the Peace.

XXIV: *And be it further enacted by the authority aforesaid, That every Captain or Commanding Officer of a company, shall call his company together three days in each year for company discipline ; and once on the first Tuesday of May, annually, for the exprefs purpose of examining and taking an exact account of every man's arms and equipments ; at which time every article required by this act, shall be brought*
to

to the place of examination; and it shall be the duty of the Clerk; or in his absence, of some other person to be appointed on the occasion, for the time only; by the Commanding Officer, for that purpose, to make out an exact roll of the company, and set against every man's name, the arms and equipments which shall belong to him: And every Commanding Officer of a company, shall constantly keep by him a roll, with the arms and equipments of every man annexed to his name, as aforesaid, from which all detachments shall be regularly detailed, and the annual return of the company made: And the said roll shall be annually revised, corrected, and completed, on the first Tuesday in *May* as aforesaid: And every person liable to do duty in the Militia, who shall be absent at the examination or review of arms, in the month of *May*, as aforesaid, and shall not send his arms and equipments to be examined, at the time and place appointed, he shall be fined for every article required in this act, not so brought or sent to be examined, as is herein before directed, besides the sum of *ten shillings*, for non-appearance as aforesaid.

XXV. *And*

XXV. *And be it further enacted by the authority aforesaid,* That every Captain or Commanding Officer of a company, shall make a return of the state of his company, comprehending every man belonging to said company, with all the arms and equipments belonging to them, to the commanding Officer of the regiment, in the month of *May*, annually : Every Commanding Officer of a regiment shall make a return of the state of his regiment, to the Brigadier, in the month of *June*, annually : And every Commanding Officer of a brigade shall make out duplicate returns of his brigade, one of which he shall transmit to the Major-General of the division to which he belongs, and the other to the Adjutant-General of the Commonwealth, in the month of *July*, annually

XXVI. *And be it further enacted by the authority aforesaid,* That the Adjutant-General shall be commissioned with the rank of Brigadier-General ; and it shall be his duty to distribute all orders from the Commander in Chief of the Militia, to the several corps ; to attend all public reviews
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when the Commander in Chief shall review the Militia, or any part thereof ; to obey all orders from him relative to carrying into execution and perfecting the system of Military Discipline, established by this Act ; to superintend the annual inspection of the Militia ; to furnish blank forms of the different returns that may be required, and to explain the principles on which they should be made ; to keep such rosters and records as are proper to be kept in his office ; to receive from the several Officers of the different corps throughout the State, returns of the Militia under their command, reporting the actual situation of their corps, their arms, ammunition and accoutrements, their delinquencies, and every other thing which relates to the general advancement of good order and discipline : All which the several Officers of the divisions, brigades, regiments, battalions and companies are hereby required to make in the usual manner, or as the Commander in Chief shall direct, so that the Adjutant-General may be duly furnished therewith : From all which returns, he shall make proper abstracts, and a general return of

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the whole Militia of the Commonwealth, and lay the same before the Governor or Commander in Chief, and forward a duplicate thereof to the President of the United States.

XXVII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Brigade-Inspector to attend the regimental and battalion meetings of the Militia, composing the several brigades, to which they belong, during the time of their being under arms ; to inspect their arms and equipments ; to superintend their exercise and manoeuvres, and introduce the system of discipline, established by this Act ; to obey all orders they may from time to time receive from the Commander in Chief, or others, their superior Officers ; to make returns to the Adjutant-General, at least, once in a year, and at such other times as shall be required of the Militia of the brigades to which they severally belong, reporting therein the actual situation of the corps, their arms, ammunition and accoutrements, and every other thing which they may be required to report ; or which in their judgment may relate to their
their

their government, and the general advancement of good order and military discipline.

XXVIII. *And be it further enacted by the authority aforesaid,* That the rules of discipline approved and established by Congress, in the resolutions of the twenty-ninth day of *March*, one thousand seven hundred and seventy-nine, shall be the rules and regulations of discipline, to be observed by the Militia of this Commonwealth; except such deviations from said rules, as may be necessary by the requisitions of this Act, or some other unavoidable circumstances; and every Officer receiving a commission in the Militia, shall immediately provide himself with a book containing those rules.

XXIX. *And be it further enacted by the authority aforesaid,* That every regiment of Militia of this Commonwealth, shall be assembled in regiment, once in two years, for review, inspection and discipline, on such days as the Commanding Officers of the several divisions or brigades shall order; (the Commanding Officers of regiments to point

point out the place.) And the Militia of every town shall be assembled together once in two years, (the year it is not mustered in regiment) at such time and place as the Commanding Officer shall order, and shall be instructed and disciplined under the direction of a Field-Officer. *Provided nevertheless*, in new settlements, where the dispersed situation of a regiment may oblige men to march twenty miles or more, to the place of parade, it shall be at the discretion of the Commanding Officer of the regiment, to muster the Militia in such settlements, either by regiment, by towns, or other convenient bodies. And every non-commissioned Officer and Private shall come to the place of parade, with necessary refreshment for said day, at his own expence.

The cavalry and artillery, and other corps raised at large, shall also be reviewed and inspected, once in every year, either with the regiments and battalions, or by themselves, as the Major-Generals, or the Brigadiers shall order, and at such times and places as they shall direct. And each
Commanding

Commanding Officer of a Corps, when on duty, shall have full power and authority, to ascertain and fix certain necessary limits and bounds, to their respective parades, (no road in which people usually travel, to be included) within which no spectator shall have right to enter without liberty from said Commanding Officer ; and in case any person shall so intrude within the limits of the parade, after being once forbidden, he shall be subject to be confined under guard, during the time of exercise, at the discretion of the Commanding Officer. And whenever different corps shall be assembled together, the senior Officer present, shall command without any regard to corps whatever. And all Officers when on duty, shall take rank according to the dates of their commissions ; and when two of the same grade bear an equal date, and former pretensions of some commission do not decide, then their rank shall be determined by lot, to be drawn by them, before the Commanding Officer present ; and when on Court-Martial before the President thereof.

XXX. *And be it further enacted by the authority aforesaid,* That every Captain or

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Commanding

Commanding Officer of a Company, who shall neglect or refuse to call out his company, as often as the law requires, for discipline, and on the first Tuesday of *May*, for a view of arms, as directed by this Act, or at any other time, when thereto required, by his superior Officer ; or who shall at any time excuse his men, for unnecessary absence, or deficiency, shall be tried by a Court-Martial, and if thereof convicted, he shall be reprimanded in orders, or removed from office, at the discretion of said Court.

XXXI. *And be it further enacted by the authority aforesaid,* That at any regimental muster, the several companies shall form in regiment, according to the rank of the Officers, commanding them ; and the same rule shall apply whenever different corps are assembled together ; excepting so far as by custom, usage and necessity, cavalry, artillery and light-troops, may be detached from the battalions.

XXXII. *And be it further enacted by the authority aforesaid,* That whenever in case
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of threatened or actual invasion, insurrection, or other public danger or emergency, the Militia, or any part thereof, shall be ordered out or detached, if any person who shall be ordered out or detached, in obedience to such orders, being duly notified thereof, and ordered to march to the place of rendezvous, shall neglect or refuse to obey such orders, or shall not within twenty-four hours, after he shall have been notified as aforesaid, pay a fine of *ten pounds*, to the Commanding Officer, of the company to which he belongs, or procure an able-bodied man, in his stead, such person shall be considered as a soldier in such detachment, and be dealt with accordingly. *Provided always*, That whenever a detachment is made, the Officers, non-commissioned Officers and Privates, being able of body, shall be detailed from the rosters or rolls which shall be kept for that purpose ; and any person who by absconding after being detached, as aforesaid, or by deserting from such detachment, shall attempt to evade the punishment by law provided for desertion, he shall pay a fine of *twelve pounds*, to be sued for and recovered by the
Clerk

Clerk of the company, to which such person belongs, any time within twelve months after the discharge of such detachment ; said fine to be disposed of for the purpose of paying such men as shall be hired or drafted into service : And any Officer holding a commission in the Militia, who shall neglect or refuse to execute any orders he may receive from his superior Officer, to make a detachment of the corps under his command, it shall be the duty of the Officer who issued such orders, immediately to arrest such delinquent Officer, bring him to trial therefor, before a Court-Martial, and forthwith give information thereof to the Commander in Chief ; and the Officer who issued the order which shall not have been executed, as aforesaid, shall immediately after arresting the delinquent Officer, proceed by himself or some other Officer, under his command, to make and complete the detachment, ordered as aforesaid. And when any regiment or company shall not be organized, the Officer issuing the orders for such detachment, shall by himself, or some other Officer under him, proceed to make and complete the detachment from
any

any part of the Militia, of such unorganized corps.

XXXIII. *And be it further enacted by the authority aforesaid,* That whenever the Militia, or any part thereof, of any town, shall be ordered to march for the immediate defence of this State, each Officer and Soldier shall provide and take with him three days provision, unless otherwise ordered; and the Selectmen of such town shall cause carriages to attend them with farther supplies of provisions and camp utensils, until notice shall be given them to desist, by the Commanding Officer of the Militia detached: And the Selectmen shall prefer their accounts for such supplies to the General Court for allowance and payment: And whenever the Selectmen of any town or district, from which a detachment shall be ordered, shall be notified by any Officer duly authorized thereto, and shall neglect or refuse to furnish such supplies and utensils, the town or districts to which such Selectmen belong, shall pay a fine not exceeding *fifty pounds*, to be sued for and recovered by any person who shall prosecute for the same; one moiety to the
prosecutor,

profecutor, and the other to the use of the Commonwealth ; and the Officer to whom such camp utensils shall be delivered, shall be accountable for the same, unless broken or lost by some unavoidable accident, not in his power to prevent.

XXXIV. *Be it further enacted by the authority aforesaid,* That if any Officer, non-commissioned Officer or Private of the Militia, shall be killed or die of his wounds received in the service of this Commonwealth, his widow, child or children, shall be entitled to similar relief, and under the same regulations and restrictions, as is provided by law in such cases for the relief of widows and orphans of persons killed or dying of wounds received in the service of the United States : And if any Officer, non-commissioned Officer or Private of the Militia, shall be wounded or otherwise disabled in the service of this Commonwealth, he shall be entitled to similar relief, and under the same regulations and restrictions, as is provided by law in such cases for the relief of persons wounded or disabled in the service of the United States.

XXXV. *And*

XXXV. *And be it further enacted by the authority aforesaid,* That the Governor or Commander in Chief, shall appoint Courts-Martial for the trial of all Officers above the rank of Captain : That the Major-Generals or Commanding-Officers of divisions, each within his own division, shall appoint Courts-Martial for the trial of Captains and all Officers under that rank : And it shall be the duty of every Officer who shall appoint a Court-Martial, as aforesaid, to approve or disapprove of every sentence of such Court-Martial by them appointed :— And no Officer who shall appoint a Court-Martial, shall be President thereof, nor shall any sentence be put in execution until it shall have been approved of as aforesaid : No Court-Martial shall consist of a less number than thirteen commissioned Officers, the President of which shall not be under the rank of a Field Officer ; and no Field Officer shall be tried by any person under the degree of a Captain ; and all Officers shall take rank by seniority of commission, without regard to corps : And the Officer who shall appoint a Court-Martial, shall at the same appoint a suitable person for a Judge-Advocate,

Judge-Advocate, whose duty it shall be impartially to state the evidence, both for and against the Officer under trial ; to take accurate minutes of the evidence, and all the proceedings of the Court ; all of which he shall transmit, with the judgment of the Court thereon, under seal, to the Officer whose duty it is to approve of such judgment. Every Officer to be tried shall have ten days notice given him of the time and place appointed for trial : And every Officer to be tried shall be put in arrest, so as to be suspended from the exercise of his office, and shall have a copy of the charges exhibited against him ten days before the sitting of said Court ; and in case any Officer, for the trial of whom a Court-Martial shall be appointed, shall neglect to appear and make defence, he shall be deemed by said Court guilty of the charge, and shall be sentenced accordingly : In every Court-Martial held for the trial of an Officer, not less than two thirds of the members must agree in the sentence or judgment of said Court, otherwise the person charged shall be acquitted : All proceedings and trials by Court-Martial shall be carried on in the day time ; and
when

when the members shall be required to give their votes on a question or decision, they shall begin with the youngest in commission, first : All persons shall be holden to appear and give evidence before any Court-Martial, under the same penalties for neglect, as are by law provided for witnesses in other cases, when thereunto summoned by a Justice of the Peace for such service : And all witnesses shall be sworn by the Judge-Advocate before they give their evidence to the Court. Before any Court-Martial shall proceed to the trial of any Officer, the Judge-Advocate shall administer to the President and each of the members, the following, oath viz.

YOU A. B. do swear, that you will well and truly try the case now before you, between this Commonwealth and the person to be tried ; and you do further swear that you will not divulge the sentence of this Court-Martial, until it shall be approved or disapproved of ; and that you will not on any account, at any time whatever, discover the vote or opinion of any member, unless required to give evidence thereof, as a witness by a Court of Justice, in a due course of law.

So help you GOD !

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And

And the President shall administer to the Judge-Advocate the following oath, viz.

YOU A. B. do swear, that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this Court-Martial, unless required to give evidence thereof, as a witness, by a Court of Justice, in a due course of law.

So help you GOD !

XXXVI. *And be it further enacted by the authority aforesaid, That every Officer holding a Commission in the Militia, who shall be accused of any unmilitary conduct, neglect of duty or disobedience of orders ; or who shall when on duty, appear, or behave himself in an un-officer-like manner, or shall wilfully injure those who are under his command, he shall be liable to be tried by a Court-Martial, and if found guilty, to be sentenced by said Court, to be reprimanded in orders, or to be removed from Office : And whenever a Court-Martial shall sentence any Officer to be removed from office, the Court shall therein adjudge such Officer incapable of holding any military*

tary commission under this Commonwealth for life, or for years, according to the nature and aggravation of his offence ; and such sentence being duly approved of by the Officer appointing such Court-Martial, shall be published and remain in full force, unless reversed, so far as respects disqualification by the General Court.

XXXVII. *And be it further enacted by the authority aforesaid,* That every town within this Commonwealth, shall be constantly provided with sixty-four pounds of good gun-powder, one hundred pounds of musket-balls, one hundred flints, and three tin or iron camp-kettles, for every sixty-four soldiers in the Militia of such town, enrolled as aforesaid ; and the same proportion of each of the aforesaid articles for a greater or lesser number : And every town which shall neglect to keep constantly provided with the said articles, shall forfeit and pay, for the use of the Commonwealth, for every sixty-four men in such town which shall be unprovided with the said articles, the sum of *six pounds*, to be recovered by presentment

ment in the Court of General Sessions of the Peace, in the county to which such town shall belong : And it shall be the duty of the Brigade-Inspector annually to inspect the magazines of each town, within the brigade to which he belongs, and to make complaint to the Grand-Jury of the county against all towns, which shall neglect to keep constantly provided as aforesaid,

And whereas the good citizens of this Commonwealth are often injured by the discharge of single guns on a muster-day,
Therefore,

XXXVIII. *Be it further enacted by the authority aforesaid,* That no non-commissioned Officer or Private, shall unnecessarily fire a musket or single gun, in any public road, or near any house or near the place of parade, on any day or evening succeeding the same on which any troop or company shall be ordered to assemble for military duty, unless embodied under the command of some Officer ; and if any non-commissioned Officer or Private shall fire a musket or
gun,

gun, except as aforesaid, on the said day or evening succeeding, without being embodied as aforesaid, he shall forfeit and pay a fine of *five shillings*, for each and every offence aforesaid, to be sued for, recovered and disposed of in the same manner as fines for non-appearance on a muster-day, are recovered and disposed of.

XXXIX. *And be it further enacted by the authority aforesaid,* That the Adjutant-General, the Quarter-Master-General, Brigade-Inspectors, and Adjutants of regiments, shall receive a reasonable consideration for their services, to be allowed by the General Court. And all Officers serving on Military Boards, Courts of Inquiry, and Courts-Martial, shall receive pay, while necessarily employed therein, at the same rate as when in actual service : And the Adjutant-General, or Brigade-Majors, as the case may be, shall make up pay rolls, of such Military Boards, Courts of Inquiry, and Courts-Martial, and lay the same before the General Court, for allowance ; and they shall receive payment at the Treasury, of the sums

so allowed, and pay the same over to the Officers who performed the service.

In SENATE, June 22, 1793.

This Bill, having had two several readings, passed to be enacted.

SAMUEL PHILLIPS, *President.*

In the HOUSE of REPRESENTATIVES,
June 22, 1793.

This Bill, having had three several readings, passed to be enacted.

WILLIAM TUDOR, *Spcak. pro. tem.*

Approved, *June 22, 1793,*

JOHN HANCOCK.

A true Copy.—Attest,

JOHN AVERY, *jun. Secretary.*

An Act

In addition to an Act, entitled, "An Act for regulating and governing the Militia of the Commonwealth of *Massachusetts*, and for repealing all Laws heretofore made for that purpose," excepting an Act, entitled, "An Act for establishing rules and articles for governing the troops stationed in the forts and garrisons within this Commonwealth, and also the Militia when called into actual service."

I. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That from and after the passing of this Act, in addition to the persons hereafter named, who are exempted by a Law of the *United States* from military duty, viz: The Vice President of the *United States*, the Officers, judicial and executive, of the Government of the *United States*, the Members of both Houses of Congress, and their respective Officers, all Custom House Officers, with their Clerks, all Post Officers, and Stage Drivers who are employed in the care and conveyance of the mail of the Post-Office of the *United States*, all Ferry-men employed at any ferry on the Post-road, all Inspectors of Exports, all Pilots, all Mariners actually in the sea-service of any citizen or merchant, within the *United States*,—the following persons

persons shall also be exempted from military duty, viz : The Lieutenant Governor, Members of Council, Judges of the Supreme Judicial Court, with their Clerks, the Secretary and Treasurer, with their Clerks, Officers and Students of any College actually resident there, Judges of the Court of Common Pleas, with their Clerks, Judges of Probate, Registers of Probate, Registers of Deeds, those who have received a Commission to keep the Peace, and are qualified to act in that office, Ministers of the Gospel, Members of the Legislature of this Commonwealth, with their Officers, when the same is in session, Sheriffs, those of the Religious denomination called Quakers and Shakers, such Engine-men as are exempted from military duty, by virtue of any Law of this Commonwealth, and all persons who have heretofore held a Commission in the Army or Militia and are now out of Office, and all persons who now do, or hereafter may hold Commissions in the Militia, and shall complete the term of five years service therein or be superseded.

II. *Be it further enacted*, That when any non-commissioned Officer or Private, in any
Company.

Company, shall receive orders from the Captain or Commanding Officer of such Company, to notify and warn such Company, or any part thereof, to meet for the purpose of choosing an Officer or Officers, it shall be the duty of such non-commissioned Officer or Private, to give every person, whom he is so ordered to warn, personal notice, or leave him a written or printed notification at his last and usual place of abode, specifying the time, place and purpose of said meeting; and if any such non-commissioned Officer or Private, shall neglect to warn such meeting, in manner aforesaid, or shall neglect to warn any meeting of such Company for common and ordinary trainings, agreeably to the orders he shall have received from the Captain or Commanding Officer of such Company, he shall forfeit and pay the sum of *twelve dollars*, be reduced to the ranks and incapable of holding any office in the Militia for the term of two years.

III. *Be it further enacted*, That every person who shall hereafter enlist into any volunteer corps (whether such person be
exempt.

exempt by this Act, from doing militia duty or not) shall be holden to do duty therein for the term of seven years, unless such person be sooner discharged, by order of the Brigadier General or Commanding Officer of the Brigade, to which such volunteer corps belongs; and any person who shall so enlist, into any volunteer Corps, and shall afterwards neglect to do duty therein, shall incur the same penalties as are affixed to like offences, committed by non-commissioned Officers and Privates in the standing Militia Companies.

IV. *Be it further enacted*, That if any Clerk of a Company, or Sergeant acting in the capacity of a Clerk, shall neglect or refuse to do and perform any duty enjoined upon him by law, he shall, for every such neglect, forfeit and pay the sum of *twelve dollars*, to be recovered before some Justice of the Peace, in the County where such offender lives, in an action of the case, to be brought by the Captain of such Company, or the Adjutant of the Regiment, to which such Company belongs, to the use of such Captain or Adjutant who shall first sue for the same.

V. *Be*

V. *Be it further enacted*, That when any Company shall be paraded, the Captain or Commanding Officer of such Company, is hereby authorized and empowered, verbally to warn the persons so paraded, to appear at some future day, not exceeding forty days, and such warning shall be deemed to be legal as it respects all the persons present.

VI. *Be it further enacted*, That no person shall be deemed or taken to be a Quaker or Shaker, within the meaning of this Act, unless he shall annually in the month of April, deliver to the Captain or Clerk of the Company wherein he resides a certificate, signed by two of the Overseers and countersigned by the Clerk of the Meeting or Society, with which he meets for worship, in substance as follows, viz.

*We, the Subscribers, Overseers of the Meeting or Society of in the town of
in the County of do hereby certify, that
 frequently and usually attends with
said Society for public worship, and we believe
is conscientiously scrupulous of bearing arms.*
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Which certificate, so signed and delivered as aforesaid, shall exempt the person therein named, from doing military duty for the term of one year, unless the same be invalidated by sufficient evidence.

VII. *Be it further enacted*, That where, by this Act, or the Act to which this is an addition, any non-commissioned Officer or Private shall forfeit any sum of money, of the amount of *thirteen dollars and thirty-three cents*, or under the same, shall be recovered in manner prescribed by the twenty-third section of the Act to which this is in addition; in which action or prosecution it shall be lawful for such Clerk, in any stage of the proceedings, before the rendition of final judgment, to amend his declaration or complaint, without paying costs to the adverse party. And the Clerk shall not be liable to pay the defendant cost, where he produces a certificate signed by a majority of the commissioned Officers of the Company, directing him to institute the suit. And any Officer or Soldier belonging to any Company, except the Clerk, shall be considered as a competent witness in any
action

action or prosecution, brought by the Clerk of such Company, for the recovery of a fine, notwithstanding that a part of such fine may enure to the benefit of such Company..

VIII. *Be it further enacted*, That no election of a Commissioned Officer, in future, shall be valid, unless a majority of the legal voters of the Company are present at the meeting called for that purpose.

IX. *Be it further enacted*, That each Major General within this Commonwealth, is authorized and empowered to appoint some suitable person to distribute his orders, and the persons so appointed shall lay their accounts before the Committee on Accounts for allowance.

X. *Be it further enacted*, That the Captain or Commanding Officer of a Company of Artillery, shall lay his accounts for money actually expended in providing horses to drag the field pieces and tumbrels of their respective Companies, before the Committee on Accounts for allowance : *Provided*, no allowance shall be made unless said Com-
pany

pany is ordered to appear in Battalion or Regimental muster, or to march out of the town to which they belong, by their superior Officers.

XI. *Be it further enacted*, That the Selectmen of the several towns and districts, and the Assessors of unincorporated Plantations in this Commonwealth, shall furnish, at the expense of the several towns, districts and plantations, to the Commanding Officer of each Company for the use of each private Soldier, with one quarter of a pound of powder, when ordered out on duty, for a division, brigade or regimental muster, the number to be ascertained by a roll certified by the Commanding Officer of the Company to which they belong. And it shall be the duty of each private Soldier, to use and consume such powder according to the directions of the Commanding Officer of such Company.

XII. *Be it further enacted*, That from and after the passing of this Act, no non-commissioned Officer or Private Soldier, belonging to any Company of Militia in this Commonwealth,

monwealth, shall be exempted from military duty on account of bodily infirmity, unless he shall obtain a Certificate from the Surgeon or Surgeon's-mate of the Regiment to which he belongs, if either of those Officers are appointed in said Regiment, if not, from a reputable Surgeon or Physician, living within the limits of the same, that he is unable to do military duty by reason of bodily infirmity; the cause of which is to be described in said Certificate, and the Officer commanding said Company, may, upon the back of said Certificate, discharge the person named therein from doing military duty in said Company for such term of time as he shall judge reasonable; which Certificate, if approved and countersigned by the Officer commanding the Regiment, Battalion or Squadron, to which said disabled person belongs, shall entitle him to a full exemption from military duty for the term therein specified.

XIII. *Be it further enacted,* That in each Squadron of Cavalry within this Commonwealth, there shall be one Adjutant and one Quarter-Master, to be appointed and commissioned

missioned in the same manner as such Officers are appointed and commissioned in Battalions of Cavalry.

XIV. *Be it further enacted*, That each Brigadier General or Commanding Officer of Brigade of the Militia of this Commonwealth, is authorized, by voluntary enlistment, to raise and organize a band of musick in each Brigade, and when so raised to issue warrants to them accordingly.

XV. *Be it further enacted*, That no Officer or Soldier of the Militia, shall be holden to do any military duty on any day, (except on days which are or may be specially prescribed by Law) on which the Selectmen or Assessors of any Town or District shall appoint a meeting for the election of a Representative to the General Court, or on the day pointed out by the Constitution for the election of Governor, Lieutenant-Governor and Senators of this Commonwealth, or on any day, which is or may be appointed for the choice of Electors of President and Vice President of the *United States*, or Representatives to Congress. And it shall
not

not be lawful for any such Officer to exercise any military command on either of said days, unless in case of sudden invasion, made or threatened, or in obedience to the orders of the Commander in Chief, except as is herein before excepted, and every Officer offending herein, shall for each offence, forfeit and pay a sum not less than *ten* nor more than *three hundred dollars*.

XVI. *Be it further enacted*, That from and after passing this Act, no appeal shall be allowed to either party, from the judgment of a Justice of the Peace, upon any action brought by any Clerk of a Company of Infantry, Artillery or Cavalry, within this Commonwealth, for the recovery of any fine supposed to be incurred for the breach of any part of this Act, or of the Act to which this is in addition.

XVII. *Be it further enacted*, That whenever any Company of Militia shall be destitute of all commissioned Officers, it shall be the duty of the Commanding Officer of the Regiment or Battalion, and if there be no such Officer, then of the Commanding Of-
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ficer of the Brigade to which such Company may belong, forthwith to issue his warrant to some one or more individuals of such Company, or persons liable to do duty therein, commanding him or them to notify and warn all the persons liable to do duty in such Company, to assemble at some suitable time and place to be named in such warrant, for the purpose of choosing Officers; which warning it shall be the duty of the said person or persons, to whom such warrant may be delivered, to give, ten days at least before the time assigned for assembling such Company. And it shall be the duty of such Commanding Officer of a Battalion, Regiment or Brigade, to appoint some suitable Officer to preside at such election, receive the votes of such Company, and certify the choice to the Commander in Chief.

XVIII. *Be it further enacted*, That when any Company of Militia shall be destitute of all commissioned Officers for the space of six months, having been legally notified to choose their Officers as aforesaid, then it shall be the duty of the Commander in Chief to issue his orders to the Selectmen of the
Town

Town to which the said destitute Company shall belong, requiring them to return him an exact roll of all the men belonging to the said destitute Company, liable by Law to be borne on said roll, within twenty days from the receiving such order, and also to revise the said roll as the law directs, from time to time, when thereby required by the order of the Commander in Chief, within twenty days from receiving such order; and it shall be the duty of the Commander in Chief immediately to distribute and assign the men, borne on the said roll, to and among the several Companies that are organized, as he shall think best, within the Division where they reside.

XIX. *Be it further enacted,* That the men so distributed, shall be under the command of the Commanding Officer of such Company, to which they shall be so distributed or assigned, and shall do duty under such Commanding Officer, and be liable to all the fines and penalties for disobedience of his orders, or for non-appearance, or for neglecting to equip themselves, as in other cases.

XX. *Be*

XX. *Be it further enacted,* That it shall be the duty of the Captain or Commanding Officer of the Company to which such men shall be distributed and assigned as aforesaid, immediately to enrol them with his Company, and to call them out for the purpose of examining their arms and equipments, and instructing them in military exercises, as often as he is, by law, enjoined to inspect and instruct his own Company, and to parade them with his own Company or otherwise, as he shall think best, or be directed by his superior Officers.

XXI. *And be it further enacted,* That the Captain or Commanding Officer of Companies, to which such men may be distributed and assigned as aforesaid, shall have full power to issue his orders to any one or more of the men, that may be distributed or assigned to his Company as aforesaid, or to any non-commissioned Officer or private of his own Company, requiring them to warn such men, as may be so distributed and assigned to his Company by the order of the Commander in Chief as aforesaid, to meet, armed and equipped as the law directs, at
such

such time and place as the Commanding Officer of said Company shall appoint, for the purpose of examining their arms and equipments, and instructing them in military exercises ; and the testimony of any person, so appointed by the Captain or Commanding Officer of Companies, as aforesaid, under oath to warn and notify the men assigned as aforesaid, or part thereof, to appear at the time and place appointed for any muster, view of arms, or other military duty, shall be sufficient to prove due warning was given to the party against whom complaint may be made for non-appearance.

XXII. *Be it further enacted*, That if any Selectmen of any Town where any Militia Company shall be destitute of Officers as aforesaid, shall neglect or refuse to return an exact roll of the men as aforesaid within the time aforesaid, to the Commander in Chief as aforesaid, and also to revise the rolls as aforesaid, they shall pay a fine of *fifty dollars*, each, for every twenty days they shall so neglect to return the rolls as aforesaid ; to be sued for and recovered by the Brigade Inspector, and in case of a vacancy of this Officer,

ficer, by the Adjutant-General ; one moiety thereof to the use of the Officer who shall prosecute for the same, and the other moiety to the Commonwealth.

XXIII. *Be it further enacted*, That every non-commissioned Officer, or other person, who shall neglect or refuse to give any warning required by this Act, when ordered thereto by the Commanding Officer of any Company as aforesaid, by his warrant under his hand, or when commanded to do and perform the duty prescribed in the eighteenth* section of this Act, shall for every such offence, forfeit and pay a fine of *twenty dollars* ; one moiety thereof to the Clerk of the Company who shall prosecute for the same, the other moiety to the Commanding Officer of said Company, in trust for the use of said Company : And when there shall not be any Clerk in such Company, then it shall be the duty of the Brigade Inspector, or in case of a vacancy in that office, then of the Adjutant-General, to prosecute

* This word *eighteenth* is a mistake, it should have been *seventeenth* — This error is in the original Act; but it has been corrected in June Session 1800, by a special Act for that purpose.

secute for said fine, in which case, one half thereof shall be to the use of the Officer who shall prosecute for the same, and the other half to the Commonwealth.

XXIV. *And be it further enacted,* That whenever a majority of any Company, destitute of Officers as aforesaid, shall signify their desire, in writing, to the Selectmen of the town where such destitute Company may be, of meeting and choosing Officers in their own Company, such Selectmen shall immediately notify and warn a meeting for that purpose, by posting up notifications thereof in two public places, at least, within the limit of said Company, ten days at least, before the time appointed for such meeting, and said Selectmen shall preside at such meeting, and shall receive, count and sort the votes that may be given in for the Officers, and shall make return thereof to the Commander in Chief, who shall commission them accordingly; and when so commissioned and qualified, as the Law directs, they shall be the proper Officers of said Company, and the Commanding Officers of Companies to which they have been distributed and assigned as aforesaid, shall cease to continue them

on their rolls, or call upon them for any further duty.

XXV. *And be it further enacted*, That the third * section in the Act to which this is an addition ; also an Act passed on the twenty-fourth day of February, A. D. seventeen hundred and ninety-six, and the Resolve passed March the seventh, one thousand seven hundred and ninety-seven, making provision for Major Generals issuing their orders, and providing payment for horses to drag field-pieces, be, and they are hereby repealed, except so far as respects the recovery of any fines or forfeitures already incurred thereby.

XXVI. *And be it further enacted*, That the several fines and forfeitures, the mode of recovery of which is not herein before specially

* In the Edition of Massachusetts Laws, vol. II, printed by Isaiah Thomas, a proviso to the first enacting paragraph is numbered which ought not to be, by reason whereof the numbers of all the subsequent enacting paragraphs are shifted. The third section above referred to, is the third enacting paragraph in the Law, and in Thomas' Edition abovementioned is numbered four.

pecially prescribed, shall and may be recovered in an action of the case in the name of the person authorized to sue for the same, and shall be brought before any Court proper to try the same, within the County where the offender resides.

*In the HOUSE of REPRESENTATIVES,
Feb. 28, 1800.*

This Bill, having had three several readings, passed to be enacted.

EDWARD H. ROBBINS, *Speaker.*

In SENATE, March 3, 1800.

This Bill, having had two several readings, passed to be enacted.

SAMUEL PHILLIPS, *President.*

March 4, 1800. By the Lieutenant Governor approved.

MOSES GILL.

A true Copy.—Attest,

JOHN AVERY, *Secretary.*

INDEX

TO THE LAW PASSED JUNE 22, 1793.

Paragraph.

- No. **A**LL former laws
1. repealed except the law for governing the Militia when in service.
2. Enrolment—how made and proved.
3. Repealed by Act of 4th March, 1800.
4. Militia—how formed, organized, numbered and recorded.
5. Militia—how officered.
6. Officers—how elected.
7. Officers to take and subscribe the oaths when they receive their commissions—how administered and certified.
8. Non-commissioned Officers—how appointed and discharged.

Paragraph.

9. Companies to have Clerks—their duty.
10. Companies destitute of Officers—how Non-commissioned Officers and Clerks are to be appointed.
11. Officers—how to be discharged—to return their books.
12. Cavalry—how raised, officered, formed, and equipped—when marched, horses to be appraised.
13. Artillery—how raised, officered, formed, equipped and provided.
14. Senior companies to act as Light-Infantry.
15. General regulations respecting companies raised at large.

Paragraph.

16. Ancient Artillery Company, to retain its privileges.
17. Officers—how armed and uniformed.
18. Non-Commissioned Officers and Privates—how armed and equipped—musquets to be capable of a ball 18 to the pound—arms to be exempt from attachment.
19. Penalty for non-equipment—parents, masters and guardians to furnish those under their care—towns to equip those who are unable—proceedings in case a man sells, &c. the town's arms.
20. Penalty for non-appearance, and having unfit arms—how a man may be excused within 8 days, in case, &c.
21. Companies—how named and called out—how marching moved—Non-Commissioned Officers' power to call out Companies, &c.

Paragraph.

22. Punishment and penalty for misconduct on a muster day.
23. Fines and forfeitures how recovered.
24. How often Companies to be called out—view of arms in May—Clerk's duty—Captains always to have a Roll—penalty for not bringing arms, and for non-appearance.
25. Times and manner of making returns.
26. Duty of Adjutant-General.
27. Duty of Brigade Majors and Inspectors.
28. Steuben's Discipline to be used—Officers to provide themselves with the book.
29. Reviews, inspections and musters—limits of parade to be fixed—no one to intrude—senior officer to command—Officers how to take rank.
30. Officers to be tried for neglect of duty.
31. Of the rank of companies.

I N D E X.

11

Paragraph

- 32. Of making detachments.
- 33. Detachments how supplied—Selectmen fined for neglect—Officer to account for utensils lost.
- 34. Persons killed or disabled in service, relief in such cases.
- 35. Of Court Martials.
- 36. Officers to be tried for misconduct.

Paragraph.

- 37. Towns to be provided with warlike stores—penalty for neglect—Brigade Inspectors their duty in such cases.
- 38. Penalty for irregular firings.
- 39. Officers sitting on Military Courts to be compensated.

I N D E X-

To THE LAW PASSED MARCH 4, 1800.

Section.

- 1. Persons exempted from military duty by this act, in lieu of third section in former act repealed.
- 2. Company to be warned for choice of Officers—penalty for neglecting to warn for choosing Officers and for training.
- 3. Persons enlisting into companies raised at large to serve seven years unless discharged by the Brigadier.

Section.

- 4. Penalty for the neglect of duty by a Clerk.
- 5. Companies may be warned on parade.
- 6. How Quakers and Shakers are to be exempted.
- 7. Clerk may amend his declaration.
- 8. An election to be valid a majority of the electors must be present.

Section.

9. Major General may appoint persons to distribute his orders, and be allowed.
10. Use of artillery horses to be paid for on condition.
11. Powder to be supplied the militia by the Selectmen.
12. How persons may be exempted from military duty by reason of infirmity.
13. Adjutants and Quarter Masters to be appointed to squadrons of cavalry.
14. Bands of Music to be organized.
15. Musters not to be had on election days.
16. No appeal from a Justice to be allowed.
17. How a company is to be warned for the choice of Officers when there is no Officer in such company.
18. Companies destitute of Officers—Selectmen to revise and return Rolls—men to be assigned over to other companies.

Section.

19. Men distributed liable to be fined.
20. Men distributed—how to be commanded.
21. Men distributed—how warned and proved.
22. Penalty of Selectmen for not revising and returning Rolls—and how recovered.
23. Penalty for not warning a company when destitute of Officers—and how recovered.
24. When a company destitute of Officers has been distributed—how it may be restored and make choice of its Officers.
25. Third section of the act passed in June, 1793, an act passed 24 Feb. 1796, and a resolve passed 7 March, 1797, repealed.
26. How fines may be recovered in cases not before particularly provided for.